

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

First-Class Mail and Periodicals
Service Standard Changes, 2021

Docket No. N2021-1

PRESIDING OFFICER'S RULING CERTIFYING PRESIDING OFFICER'S RULING
NO. N2021-1/5 TO THE COMMISSION

(Issued May 18, 2021)

On May 3, 2021, intervenor Douglas F. Carlson propounded the following interrogatory (labelled DFC/USPS-T3-3) on Postal Service witness Stephen B. Hagenstein:¹

Please provide quarterly service performance scores for the nation, as distinct from individual districts, from 1998 to the present.

On May 6, 2021, the Postal Service moved to be excused from answering the interrogatory, on the grounds that the information sought was burdensome to produce and irrelevant to the proceeding.²

On May 10, 2021, the Presiding Officer granted the Postal Service's motion, finding that quarterly service performance results since 1998 are beyond the scope of the information the Commission would consider relevant to the issues presented in this

¹ Douglas F. Carlson Interrogatories and Requests for Production of Documents to United States Postal Service Witness Stephen B. Hagenstein (DFC/USPS-T3-1-12), May 3, 2021.

² Motion of the United States Postal Service to be Excused from Responding to Douglas F. Carlson's Interrogatory DFC/USPS-T3-3, May 6, 2021.

docket.³ However, the Presiding Officer found that some analysis of historical service performance would be relevant to the proceeding and took official notice of the Postal Service's quarterly reports already filed with the Commission, as they pertain to First-Class Mail and Periodicals. *Id.* at 2.

On May 10, 2021, after the POR No. 3 was issued, Mr. Carlson filed an answer in opposition to the Motion.⁴ He asserts that participants in this proceeding "need to analyze whether service performance increased after the Postal Service implemented a similar change in 2000 and 2001, under justifications similar to the ones advanced in this proceeding." Answer at 2. He requested that the Presiding Officer withdraw his ruling. *Id.*

On May 12, 2021, the Presiding Officer denied Mr. Carlson's request to withdraw POR No. 3.⁵ The Presiding Officer considered Mr. Carlson's responses in his Answer, but ultimately found Mr. Carlson's arguments unpersuasive. In particular, the Presiding Officer explained that how the service performance scores changed at a nationwide level 20 years ago are not relevant because the network and processing are significantly different, the calculation of service performance has changed, and the quarterly reports incorporated into the record include sufficient historical data more relevant to the shape of current processing and transportation networks. POR No. 5 at 3.

On May 17, 2021, Mr. Carlson filed a motion to certify POR No. 5 to the Commission.⁶ He contends that two important questions of law and policy exist, and subsequent review would not provide an adequate remedy. Motion to Certify at 3.

³ Presiding Officer's Ruling Excusing Postal Service from Answering DFC/USPS-T3-3, May 10, 2021 (POR No. 3).

⁴ Douglas F. Carlson Answer in Opposition to Postal Service Motions to be Excused from Responding to Interrogatories DFC/USPS-T1-15 and DFC/USPS-T3-3, May 10, 2021 (Answer).

⁵ Presiding Officer's Ruling Denying Request to Withdraw Presiding Officer's Ruling No. 3, May 12, 2021 (POR No. 5).

⁶ Douglas F. Carlson Motion to Certify Presiding Officer's Ruling No. N2021-1/5 to the Commission, May 17, 2021 (Motion to Certify).

Specifically, he claims that service performance scores from 1998 to the present are relevant because participants in this docket are entitled to discover and submit evidence evaluating whether a change in service standards two decades ago, under similar premises, produced the increase in consistency, or reliability, that the Postal Service promised. *Id.* at 5. In addition, he claims that the Presiding Officer's reasoning to support his original decision to grant the Postal Service's motion denies him due process and fails the Administrative Procedure Act requirement for cross-examination for a full and true disclosure of the facts. *Id.* at 8.

The Presiding Officer finds immediate appeal from the ruling will address an important question of law and policy and materially advance the ultimate termination of the proceeding. Accordingly, the Presiding Officer certifies these questions to the full Commission for its consideration and disposition pursuant to 39 C.F.R. § 3010.107(b).

RULING

The question of whether service performance scores from 1998 to the present are relevant and the question of whether Presiding Officer's Ruling No. 5 denied Mr. Carlson due process and/or violated the Administrative Procedure Act are certified to the Commission for its consideration and disposition.

Christopher Laver
Presiding Officer